

Attorney's Docket: 2002DE130
Serial No.: 10/656,313
Group: 1713

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REMARKS

The Office Action mailed February 14, 2006, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Claim Rejections Under 35 USC § 103(a)

Claims 1, 23 and 42 stand rejected under 35 USC § 103(a) as being unpatentable over Weil et al. (US Pat. 5,578,666) in view of Langford (US Pub. 2001/0011112). This rejection is respectfully traversed.

The Office predicates its rejection upon the position that:

The prior art to Weil et al. provides a flame retardant composition comprising organophosphate (Abstract). Paraffin waxes are also included in the composition (column 4, lines 27-30).

Applicants courteously can not agree with the Office's position. Applicants' invention is directed to a flame retardant composition with a low dust level which includes an organophosphorus flame retardant component and at least one dust reduction additive which is an alkylalkoxylate having from 8 to 22 carbon atoms and from 1 to 80 EO units per mole of alcohol.

To begin, Weil et al. does not provide any teaching of an alkylalkoxylate. The Office therefore draws an equivalency argument between paraffin waxes contained in Weil et al. to the secondary reference Langford, which the Office is of the position discloses a low dust composition comprising ethylene glycol phenyl ether. The Office then concludes that "it would have been obvious to one with ordinary skill in the art to incorporate the alkylalkoxylate as taught in Langford into the teachings of Weil et al. to obtain the invention of claims 1, 23 and 42.

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This conclusion, respectfully, does not follow from a knowledge of the references. Specifically, the Office references column 4, lines 27-30 of Weil et al. for the teaching of a paraffin wax. However, upon close scrutiny of such paragraph and those proceeding it in column 3, it is recognized that the paraffin wax is not added to, or part of, the flame retardant, but in contrast, added during the formation of the polymer material including the flame retardant. Support for Applicants position can be found beginning on Column 3, line 37, wherein Weil et al. begins discussion of the formation of the flame retardant polymer material of the invention. That is, the flame retardant added to the base material. Weil et al. go on to state that the blending of the flame retardant with the polymer can be done by "any several polymer mixing methods known in the art such as kneading, processing in an extruder..." (See column 4, lines 1-7). In the text referenced by the Office, Weil et al., in the respectful opinion of Applicants', is speaking of other ingredients that may be included in the mix when the polymer composition is being formed. Applicants' position is buttressed by reference to the complete paragraph of Weil et al., which states as follows:

Components often used in wire and cable insulation to add moisture resistance and improve electricals, such as red lead, stearates, paraffin waxes and the like can be used as customary in the art of insulation compounding. (Underlining added)

Therefore, it is abundantly clear that the flame retardant composition of Weil et al. does not include a dust reduction additive and, specifically, does not include an alkylalkoxylate as claimed.

The addition of Langford to show the alleged equivalence between a paraffin wax and alkylalkoxylates does not provide the motivation necessary to arrive at the instantly claimed invention. Even assuming, *arguendo*, the Office's position concerning paraffin waxes and alkylalkoxylates, one with ordinary skill in the art having a knowledge of Weil et al. and Langford would assume only that an alkylalkoxylate could be used in the formation of the polymer compound, which Weil et al. details in

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column 4. In other words, one with ordinary skill in the art, having a knowledge of these references, may, *arguendo*, include an alkylalkoxylate in the final polymeric composition of Weil et al., but would have absolutely no motivation to include any dust reduction additive in Weil et al.'s flame retardant composition.

It is therefore Applicants' respectful contention that a *prima facie* case of obviousness has not been made against claims 1, 23 and 42. Consequently, Applicants courteously request reconsideration and withdrawal of the rejection.

Claims 2-5 are rejected under 35 USC § 103(a) as being unpatentable over Weil et al. (US Pat. 5,578,666) in view of Langford (US Pub. 2001/0011112) as applied to claim 1 above, and further in view of Jenewein et al. (US Pat. 6,365,071). This rejection is respectfully traversed.

Claims 2-5 depend directly from claim 1, and, consequently, for the reasons advanced with respect to the rejection of claims 1, 23 and 42 over Weil et al. in view of Langford, it is respectfully contended that, for at least such reasons, claims 2-5 are likewise not made obvious by any combination of Langford, Weil et al. and Jenewein et al.

Claims 21, 22, 40 and 41 stand rejected under 35 USC § 103(a) as being unpatentable over Weil et al. (US Pat. 5,578,666) in view of Langford (US Pub. 2001/0011112) as applied to claim 1 above, and further in view of Gareiss et al. (US Pat. 6,084,012). This rejection is respectfully traversed.

Claims 21, 22, 40 and 41 depend from claim 1 and, consequently, for the reasons advanced with respect to the rejection of claims 1, 23 and 42 over Weil et al. in view of Langford, it is respectfully contended that, for at least such reasons, claims 21, 22, 40 and 41 are likewise not made obvious by any combination of Langford, Weil et al. and Gareiss et al.

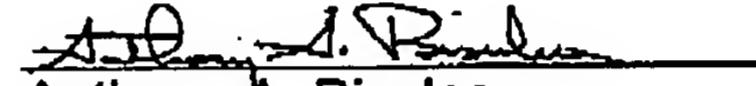
In view of the foregoing comments it is respectfully contended that all of the 35 USC § 103 rejections have been traversed. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

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In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


Anthony A. Bisulca
Attorney for Applicant
Registration No. 40,913

(CUSTOMER NUMBER 25,255)

Clariant Corporation
Industrial Property Department
4000 Monroe Road
Charlotte, North Carolina 28205
Phone: (704) 331-7151
Fax: (704) 331-7707